HIGH COURT OF UTARANCHAL AT NAINITAL

Writ Petition No. 4948 (MS) of 2001
(Old No. 8504/1987)

Zamil
S/o Qayamuddin
R/o Village Dhalipur pargana
Pachwadoon, District Dehradun. ..... Petitioner

Vs

Board or Revenue Allahabad
And others. ... Respondents.

Counsel for the petitioner Sh. S.K. Jain
and Sh Sandeep Tandon
Standing Counsel for the respondents.

Dated: 29-9-2004

Hon'ble Rajesh Tandon J.

Heard Sh. S.K. Jain and Sh. Sandeep Tandon learned counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order passed by Revenue authorities. Further the writ of mandamus has been sought not to interfere in the possession of the petitioner over the land in dispute.

Briefly stated the proceedings were started on an application moved by the Gaon Sabha, Dhalipur for declaring the property left by one Captain P.P. who died heirless. Petitioner has filed objection on the ground that he has been in possession for more than 18 years and therefore he has acquired the rights by adverse possession, the civil suit is pending in this regard.

The learned S.D.M. vide its order dt. 13-2-1987 has allowed the application moved by the Gaon Sabha and appointed Sh. Jagdish Chandra as receiver of the property. The revisional court has confirmed the said order. Board of revenue has also dismissed the revision.

Petitioner has submitted that civil suit No. 345 of 1982 is already pending between the parties and has not been decided.

In view of the aforesaid, if the petitioner is still in possession of the property in dispute his possession shall not be disturbed during the pendency of the Civil Suit.

Liberty is given to the petitioner to approach the Civil Court for getting his rights adjudicated. The order passed by the court below shall not come in the way, while deciding the suit on merits after hearing both the parties.

Subject to the aforesaid observation, the writ petition is disposed of.

Dated:- 29-9-2004 (RAJESH TANDON J.)

M.K.